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SENATE BILL 328

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

JOHN ARTHUR SMITH

AN ACT

RELATING TO TRIBAL-STATE AGREEMENTS; ESTABLISHING PROCEDURES
FOR NEGOTIATION, APPROVAL, EXECUTION AND AMENDMENT OF
AGREEMENTS BETWEEN THE STATE AND INDIAN TRIBES; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Compact Negotiation Act".

Section 2. DEFINITIONS. -- As used in the Compact
Negotiation Act:

A. "committee" means the joint legislative
committee on compacts;

B. "compact" means an agreement:

(1) entered into between a tribe and the
state;

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1 (2) entered into pursuant to federal or state
2 law; and

3 (3) that is not valid unless approved by the
4 legislature;

5 C. "governor" means the governor of New Mexico;
6 and

7 D. "tribe" means an Indian nation, tribe or pueblo
8 located in whole or in part within the state.

9 Section 3. COMPACTS--NEGOTIATION--SUBMISSION TO
10 COMMITTEE BY GOVERNOR--COMPACT PROVISIONS.--

11 A. A tribe may request the state in writing to
12 negotiate a compact or to enter into negotiations to amend an
13 approved and existing compact pursuant to action of its
14 governing authority or a representative authorized by the
15 compact to initiate negotiations for amendment of that
16 compact.

17 B. The legislature by joint resolution or the
18 governor may request a tribe to negotiate a compact or to
19 enter into negotiations to amend an approved and existing
20 compact by submitting a written request to the chief executive
21 officer of the tribe or a representative authorized by an
22 existing compact to negotiate modifications to that compact.

23 C. The governor may designate a representative to
24 negotiate the terms of a compact or an amendment, provided
25 that no representative has been identified in the wording of

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1 the compact to be amended. The designation shall be written,
2 and a copy of the designation shall be delivered or mailed
3 within three days of the designation to the attorney general,
4 the speaker of the house of representatives and the president
5 pro tempore of the senate. The governor or the governor's
6 designated representative is authorized to negotiate the terms
7 of a compact or amendment on behalf of the state, but neither
8 the representative nor the governor is authorized to execute a
9 compact or amendment on behalf of the state without
10 legislative approval granted pursuant to the provisions of
11 Section 4 of the Compact Negotiation Act.

12 D. If a proposed compact or amendment is agreed
13 upon through negotiations, it shall be prepared and submitted
14 by the governor to the committee within five days of the
15 conclusion of negotiations. The governor shall include in his
16 submittal document his recommendation for approval of the
17 proposed compact or amendment and comments about or analysis
18 of its provisions.

19 Section 4. SUBMITTAL TO COMMITTEE-- COMMITTEE ACTION--
20 LEGISLATIVE ACTION. --

21 A. Submittal of a proposed compact or amendment
22 occurs when the compact or amendment and the submittal
23 document are received for the committee by the legislative
24 council service.

25 B. The committee shall review the proposed compact

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1 or amendment and within twenty days after its receipt shall:

2 (1) by written report to the legislature,
3 recommend approval of the proposed compact or amendment; or

4 (2) by written transmittal document, propose
5 specific modifications to the proposed compact or amendment
6 and request the governor to resume negotiations with the
7 tribe.

8 C. If the committee proposes specific
9 modifications to the proposed compact or amendment, the
10 governor or his designated representative shall resume
11 negotiations with the tribe within twenty days of receipt of
12 the transmittal document unless within that time period either
13 the governor or the tribe refuses to negotiate further, in
14 which case the governor shall notify the committee
15 immediately. If negotiations are resumed and a modified
16 proposed compact or amendment is agreed to, the governor shall
17 submit to the committee the modified proposed compact or
18 amendment, together with any additional analysis or
19 recommendations. The approval process described in this
20 section for the originally submitted proposed compact or
21 amendment shall be followed for consideration of a proposed
22 modified compact or a proposed modified amendment, except that
23 the time limitation for review by the committee specified in
24 Subsection B of this section is reduced to ten days.

25 D. Within five days of being notified that further

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1 negotiations are refused, the committee shall reconsider the
2 proposed compact or amendment together with any changes agreed
3 upon by the negotiating parties and submit to the legislature
4 a written recommendation to approve the proposed compact or
5 amendment or a written statement expressing no recommendation
6 on the action that should be taken by the legislature.

7 E. The committee may return a proposed compact or
8 amendment with suggested modifications to the governor and the
9 tribe for renegotiation no more than three times. After the
10 third submittal for renegotiation, the committee shall submit
11 a report in writing to the legislature making a recommendation
12 to approve the proposed compact or amendment or making no
13 recommendation. The procedure for legislative review and
14 approval remains the same as set forth in this section.

15 F. If the legislature is in session when the
16 committee submits its recommendation, it shall at the same
17 time prepare and introduce a joint resolution approving the
18 proposed compact or amendment. A joint resolution may cover
19 more than one compact or amendment if the terms of the
20 compacts or amendments are identical except for the name of
21 the tribe and the name of the person executing the compact on
22 behalf of the tribe. A copy of the written recommendation
23 shall be submitted with the joint resolution. If a majority
24 in each house votes to adopt the joint resolution, the
25 proposed compact or amendment is approved by the legislature,

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1 and the governor shall execute it on behalf of the state.

2 G. If the legislature is not in session when the
3 recommendation of the committee is submitted, the committee
4 shall proceed pursuant to the provisions of Subsection E of
5 this section by no later than the second day of the next
6 regular or special session of the legislature.

7 H. The legislature may not amend or modify a
8 resolution submitted to it pursuant to the provisions of this
9 section except to correct technical errors in the text or
10 format, and it may not refer the resolution to a committee.

11 I. If a request for negotiation of a compact or
12 amendment is made and the proposed compact or amendment is
13 identical to a compact or amendment previously approved by the
14 legislature except for the name of the compacting tribe and
15 the names of the persons to execute the compact or amendment
16 on behalf of the tribe and on behalf of the state, the
17 governor shall approve and sign the compact or amendment on
18 behalf of the state without submitting the compact for
19 approval pursuant to the provisions of this section. A
20 compact or amendment signed by the governor pursuant to this
21 subsection is deemed approved by the legislature.

22 Section 5. JOINT LEGISLATIVE COMMITTEE ON COMPACTS--
23 CREATION-- MEMBERSHIP-- AUTHORITY. --

24 A. The joint legislative "committee on compacts"
25 is created. Once established it shall continue operating

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1 until specific action is taken by the legislature to terminate
2 its existence.

3 B. The committee shall have eight members, four
4 from the house of representatives and four from the senate.
5 House members shall be appointed annually by the speaker of
6 the house and senate members shall be appointed annually by
7 the committees' committee or, if the senate appointments are
8 made in the interim, by the president pro tempore after
9 consultation with and agreement of a majority of the members
10 of the committees' committee. Members shall be appointed from
11 each house to give the two major political parties in each
12 house equal representation on the committee. One member
13 appointed from each house shall represent a district in which
14 Native Americans constitute a majority of the voting age
15 population.

16 C. The president pro tempore of the senate shall
17 designate a senate member of the committee to be chairman of
18 the committee in odd-numbered years and the vice chairman in
19 even-numbered years. The speaker of the house of
20 representatives shall designate a house member of the
21 committee to be chairman of the committee in even-numbered
22 years and the vice chairman in odd-numbered years.

23 D. The committee shall meet at the call of the
24 chairman to consider a compact or amendment submitted to it.

25 E. The committee may meet during legislative

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1 sessions as needed.

2 F. Staff services for the committee shall be
3 provided by the legislative council service.

4 Section 6. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect
6 immediately.

1 FORTY-THIRD LEGISLATURE
2 SECOND SESSION, 1998
3
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6 February 5, 1998
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8 Mr. President:
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10 Your COMMITTEES' COMMITTEE, to whom has been referred
11

12 SENATE BILL 328
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14 has had it under consideration and finds same to be GERMANE, in
15 accordance with constitutional provisions, and thence referred to the
16 FINANCE COMMITTEE.
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19 Respectfully submitted,
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25 _____
Manny M. Aragon, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

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6 February 13, 1998

8 Mr. President:

10 Your FINANCE COMMITTEE, to whom has been referred

12 SENATE BILL 328

14 has had it under consideration and reports same WITHOUT

16 RECOMMENDATION, amended as follows:

18 1. On page 1, line 23, after "means", strike the remainder of
19 the line, strike all of lines 24 and 25 and insert in lieu thereof "a
20 tribal-state class III gaming compact entered into between a tribe
21 and the state pursuant to the federal Indian Gaming Regulatory Act
22 and including any separate agreements ancillary to that compact;".

24 2. On page 2, strike lines 1 through 4 in their entirety.

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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Respectfully submitted,

Ben D. Altamirano, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

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FORTY-THIRD LEGISLATURE
SECOND SESSION, 1998

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The roll call vote was 8 For 0 Against

Yes: 8

No: None

Excused: Aragon, Campos, Carraro

Absent: None

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